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FOLLOWING REPEAT BRASILIA 585 ACTION SECSTATE INFO EC BRUSSELS
GENEVA RIO DE JANEIRO SAO PAULO 22 JAN 75

QUOTE C O N F I D E N T I A L

E.OM11652: GDS

TAGS: PFOR, ETRD, GATT, BR

SUBJECT: USG PROTEST AGAINST BRAZILIAN IMPORT RESTRICTIONS

REF: BRASILIA 168 STATE 279836 BRASILIA 142

1. SUMMARY: EMBASSY SHARES CONCERNS OF WASHINGTON
AGENCIES WITH RESPECT RECENT GOB IMPORT INCREASES:
HOWEVER, WE BELIEVE THAT US SHOULD, IN FIRST INSTANCE,
DEAL WITH ISSUES THROUGH BILATERAL CONSULTATIONS, EITHER
IN BRASILIA OR GENEVA. POSSIBLE US MOVE, PARTICULARLY
IF TAKEN IN GATT, SHOULD BE DIRECTED TOWARD SPECIFIC
COMMODITY PROBLEMS OR TOWARD SPECIFIC PROVISIONS OF
GOB IMPORT DECREES WHICH CONSTITUTE CLEAR OR APPARENT
VIOLATION OF BRAZILIAN COMMITMENTS UNDER THE GATT. USG
EFFORT TO SEEK ACROSS-THE-BOARD CONDEMNATION OR CRITIQUE
OF GOB'S IMPORT PROGRAM WOULD BE BOUND TO FAIL, STRIKING
AT CENTRAL ELEMENT OF GEISEL ADMINISTRATION'S OVERALL
ECONOMIC STRATEGY. SUCH BROAD-SCALE US ATTACK ON GOVERNMENT'S
1975 IMPORT POLICIES COULD HAVE HIGHLY ADVERSE
POLITICAL REPERCUSSIONS, UNDERMINING BRAZIL'S RELATIVELY
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MODERATE POSITION ON MTNS.

IT WOULD CREATE AN ADVERSE CLIMATE FOR POSSIBLE VISIT BY SECRETARY TO BRAZIL, IF TAKEN BEFORE SECRETARY'S VISIT, AND SERIOUSLY AFFECT CREDIBILITY OF NEW DIALOGUE WITH BRAZIL. END SUMMARY.

2. IN CONSIDERATION BY WASHINGTON AGENCIES OF POSSIBILITY OF RAISING QUESTION OF RESTRICTIVE IMPORT MEASURES WITH GOB OR IN GATT, EMBASSY RECOMMENDS THAT FINAL DETERMINATION MAKE A CAREFUL DISTINCTION BETWEEN OUR COMPLAINTS REGARDING CLEAR OR APPARENT VIOLATION OF SPECIFIC GOB COMMITMENTS IN GATT AND ELSEWHERE AND OUR ATTITUDE TOWARD BRAZIL'S IMPORT PROGRAM AS A WHOLE, WHICH IS INTEGRAL PART OF OVERALL STRATEGY TO ADJUST DOMESTIC ECONOMY TO EXTERNAL CONSTRAINTS AND TO SAFEGUARD LONG-TERM STABILITY IN FACE OF ADVERSE TRADE DEVELOPMENTS, PARTICULARLY EFFECTS OF OIL CRISIS AND SCARCITY AND PRICE ESCALATION OF ESSENTIAL IMPORTS. BRAZIL'S TRADE ACCOUNT LAST YEAR DETERIORATED FROM A SMALL SURPLUS OF \$182 MILLION IN 1973 TO A DEFICIT OF ABOUT \$5 BILLION. THE 1974 CURRENT ACCOUNT DEFICIT WAS \$7 BILLION. IN ITS EFFORTS TO REDUCE THE EXTERNAL DEFICIT TO A MANAGEABLE LEVEL, THE GOB IS CONTINUING ITS SYSTEM OF MINI-DEVALUATIONS: AND HAS LOWERED ITS GROWTH TARGET CONSIDERABLY BELOW THE 10 PERCENT AVERAGE OF THE LAST SIX YEARS WHILE AT THE SAME TIME RE-ORDERING ITS ECONOMIC PRIORITIES. THE GOB IS, THEREFORE, COMPLEMENTING ITS IMPORT MEASURES WITH APPROPRIATE ADJUSTMENTS IN INTERNAL ECONOMIC POLICIES SO AS NOT TO PLACE ALL THE BURDEN OF ADJUSTMENT ON IMPORT MEASURES.

3. EMBASSY WOULD SUPPORT RECOMMENDATION TO RAISE ISSUE OF SPECIFIC VIOLATIONS, SUCH AS IMPAIRMENT OF BOUND CONCESSIONS, E.G., AS A RESULT OF FAILURE TO PROMULGATE SCHEDULE 3 (FOREIGN MINISTRY COMMENT ON BOUND TARIFF RATES WAS REPORTED IN BRASILIA 183.)

4. WITH RESPECT TO FOREIGN PURCHASES BY GOVERNMENT ENTERPRISES, WE HAVE OUR DOUBTS THAT A STRONG CASE CAN BE MADE. WE QUESTION WHETHER GATT ARTICLE XVII CAN BE CONSTRUED TO APPLY TO MOST GOB ENTITIES INVOLVED, SINCE THEY ARE NOT STATE TRADING ENTERPRISES BUT MAINLY GOVERNMENT-CONFIDENTIAL

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CONTROLLED INDUSTRIES, E.G., RAILROADS, ENERGY, MINING, AND ROAD-BUILDING, WHOSE IMPORTS AFFECTED BY NEW MEASURES ARE LARGELY FOR THEIR OWN CONSUMPTION. GOB MEASURES ON IMPORTS BY GOVERNMENT ENTITIES AMOUNT ESSENTIALLY TO A BUREAUCRATIC TIGHTENING OF PROCUREMENT SUPERVISION AND MORE RIGID APPLICATION OF IMPORT SUBSTITUTION PRACTICES. OVER PAST FEW YEARS, ENFORCEMENT OF THESE PRACTICES FOR IMPORTS BY STATE ENTERPRISES GREW FAIRLY LAX AND INDIVIDUAL

ENTITIES HAD CONSIDERABLE LATITUDE IN DECIDING TO IMPORT OR PURCHASE DOMESTICALLY FOR THEIR PROJECTS. ANY CHALLENGE BY USG WOULD PROBABLY HAVE TO BE BASED ON ARGUMENTS AGAINST IMPORT SUBSTITUTION PRINCIPLE OR LEGALITY OF "LAW OF SIMILARS". RATHER THAN ON LESS SPECIFIC COMPLAINT, SUCH AS CHARGE THAT IMPOSITION OF DISCIPLINE OVER STATE COMPANIES VIOLATES "FAIR AND EQUITABLE TREATMENT" CALLED FOR UNDER PARA 2 OF GATT ARTICLE XVII. HOWEVER, THERE DOES SEEM TO BE A BASIS TO ARGUE THAT INSTRUCTIONS TO STATE ENTERPRISES TO FAVOR SUPPLIER COUNTRIES WITH WHICH BRAZIL HAS A FAVORABLE TRADE BALANCE DOES VIOLATE "FAIR AND EQUITABLE TREATMENT" PROVISION. INSTRUCTION THAT ACCOMPANIED DECREE 74,908 (RIO A-151, DECEMBER 4, 1974) INDICATED THAT IMPORTS BY GOVERNMENT SECTOR WOULD BE ORIENTED AS TO "PREFERENCE TO SUPPLIERS' MARKETS FROM THE STANDPOINT OF THE TRADE BALANCE" AND TO "POSSIBILITIES OF UTILIZING THE PURCHASING POWER IN SPECIFIC SUPPLIERS' MARKETS AS AN ELEMENT TO SUPPORT NATIONAL EXPORTS."

5. EMBASSY'S PRINCIPAL CONCERN, HOWEVER, REGARDING POSSIBLE TRADE ACTION IN GATT OR BILATERALLY CENTERS ON IMPACT SUCH ACTION WOULD HAVE ON OUR OVERALL RELATIONS WITH BRAZIL PARTICULARLY IF SUCH A MOVE WAS INTERPRETED AS A BROAD ATTACK ON THE GOB'S IMPORT PROGRAM. IT WOULD CERTAINLY CREATE AN UNFAVORABLE CLIMATE FOR A POSSIBLE VISIT BY THE SECRETARY TO BRAZIL IN THE NEAR FUTURE AND WOULD ERODE THE CREDIBILITY OF HIS INITIATIVE FOR NEW DIALOGUE WITH LA.

6. AS DEPARTMENT IS AWARE, GOB SEES TRADE ISSUES AS CRITICAL IN TERMS OF NATIONAL INTEREST, AND THIS SENSITIVITY HAS INCREASED AS RESULT OF 1974 EXPERIENCES THAT REVEALED THE CONTINUING VULNERABILITY OF THE DOMESTIC ECONOMY TO VAGARIES OF THE EXTERNAL IBCT.

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FOREIGN MINISTER SILVEIRA ALLUDED TO SUCH CONCERNS TO DEPARTMENT OFFICERS DURING THE POLICY PLANNING TALKS WHEN HE CAUTIONED THAT THE US SHOULD NOT PERSIST WITH THE "COMFORTABLE BUT FALSE" ASSUMPTION THAT BRAZIL WAS NO LONGER AN UNDERDEVELOPED COUNTRY. THE OUTCOME OF THE COUNTERVAILING DUTY ACTION ON IMPORTS OF BRAZILIAN SHOES HAS NOT ALLAYED FEARS THAT THE US WOULD LIKE TO UNDERMINE THE GOB'S BROAD EXPORT DRIVE AND POSSIBILITY OF FURTHER COUNTERVAILING ACTIONS (OF WHICH THE GOB IS KEENLY AWARE) SERVES TO KEEP SUSPICIONS ALIVE.

7. FURTHER POINT TO TAKE INTO CONSIDERATION REGARDING POSSIBILITY OF RAISING TRADE ISSUE WITH BRAZIL IS THAT IN TRADE MATTERS, PARTICULARLY THOSE RELATED TO MTN, BRAZIL HAS MAINTAINED POSITION APART FROM RADICAL LATIN AMERICANS (VIZ

PERU, VENEZUELA) AND HAS WORKED TO PURSUE LDC TRADE OBJECTIVES IN GENERALLY RESPONSIBLE MANNER. IF DECISION IS TAKEN TO PURSUE INITIATIVE CRITICAL OF IMPORT PROGRAM AND WE EMPHASIZE THAT CRITICISM SHOULD BE SPECIFIC RATHER THAN GENERAL - EMBASSY BELIEVES THAT OUR BEST INTERESTS, AT LEAST INITIALLY, LIE IN PURSUING OUR COMPLAINTS BILATERALLY, EITHER IN BRASILIA OR GENEVA, RATHER THAN TAKING INITIATIVE IN GATT. CRIMMINS UNQUOTE KISSINGER

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